

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

FAIRFIELD SENTRY LIMITED, *et al.*,

Debtors in Foreign Proceedings.

Chapter 15 Case

Case No. 10-13164 (SMB)

(Jointly Administered)

FAIRFIELD SENTRY LTD. (In Liquidation), *et al.*,

Plaintiffs,

v.

Adv. Pro. No. 10-03635 (SMB)

ABN AMRO SCHWEIZ AG, *et al.*,

Defendants.

This document is also being filed in the lead
adversary proceeding, *Fairfield Sentry Ltd. (in
Liquidation), et al. v. Theodoor GGC Amsterdam, et
al.*, Adv. Pro. No. 10-03496.

**DEFENDANT-APPELLEE'S COUNTER-STATEMENT OF
ISSUES TO BE PRESENTED AND COUNTER-DESIGNATION OF ITEMS
TO BE INCLUDED IN THE RECORD ON APPEAL**

Defendant-Appellee Allianz Bank Financial Advisors SPA ("Allianz Bank"), by and through its undersigned counsel, respectfully submits, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, this counter-statement of additional issues to be presented and counter-designation of items to be included in the record on appeal with respect to the appeal by Plaintiffs in the above captioned adversary proceeding (the "Adversary Proceeding") of the Stipulated Order Granting In Part And Denying In Part Moving Defendants' Motions To Dismiss And Plaintiffs' Motion For Leave To Amend entered April 15, 2019 ("Stipulated Order"), the December 6, 2018 Memorandum Decision ("December 6, 2018 Memorandum Decision"), and the August 6, 2018

Memorandum Decision and Order Regarding the Defendants' Motions to Dismiss for Want of Jurisdiction ("August 6, 2018 Memorandum and Order") (together, the "Appealed Decisions and Orders") before the United States Bankruptcy Court for the Southern District Of New York.

**COUNTER-STATEMENT OF
ADDITIONAL ISSUES TO BE PRESENTED ON APPEAL¹**

1. All issues designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders, including, without limitation, the issues stated in Plaintiffs' Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal and the issues stated in Defendant-Appellees' Counter-Statement of Issues to be Presented and Counter-Designation of Items to be Included in the Record on Appeal filed on June 4, 2019 by co-defendants-appellees BNP Paribas (Suisse) SA, *et al.* (ECF No. 437).²

**COUNTER-DESIGNATION OF ITEMS TO BE
INCLUDED IN THE RECORD ON APPEAL³**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders, including, without limitation, the items designated in Plaintiffs' Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 435) and the items designated in Defendant-Appellees' Counter-Statement of Issues to be Presented and

¹ Defined terms carry the meaning ascribed to them in the corresponding decision or order from which appealed.

² Memorandum Decision Granting in Part and Denying in Part Defendants' Motions to Dismiss and Plaintiffs' Motions for Leave to Amend, *Fairfield Sentry Limited, et al. v. Theodoor GGC Amsterdam, et al.*, 10-03496-smb (ECF No. 1743).

³ Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

Counter-Designation of Items to be Included in the Record on Appeal filed on June 4, 2019 by co-defendants-appellees BNP Paribas (Suisse) SA, et al. (ECF No. 437).⁴

RESERVATION OF RIGHTS

Allianz Bank expressly reserves the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Appealed Decisions and Orders.⁵

Dated: June 4, 2019
New York, New York

Respectfully submitted,

/s/ Kimberly Perrotta Cole
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⁴ Unless otherwise specified, citations to (ECF No. ____) refer to docket entries from *Fairfield Sentry Limited, et al. v. ABN AMRO Schweiz AG a/k/a ABN AMRO (Switzerland) AG*, Adv. Pro. No. 10-03635-smb (SMB) (Bankr. S.D.N.Y.).

⁵ By filing this paper, Allianz Bank does not waive, but expressly preserves, all defenses and arguments pertaining to lack of personal jurisdiction and insufficient service.